



December 12, 2000

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NOTICE OF VIOLATION
00-HW-10

FILE COPY

Mr. Frank Claar
National Railroad Passenger Corporation
Wilmington Maintenance Facility
4001 Vandever Avenue
Wilmington, Delaware 19802

Reference: DED060058062, File Code: 09

Dear Mr. Claar:

On August 17, August 24, and September 22, 2000, Delaware Department of Natural Resources and Environmental Control (DNREC), Solid and Hazardous Waste Management Branch (SHWMB) representatives Kevin D. Yingling and Robert R. Palmer conducted a Delaware Regulations Governing Hazardous Waste Compliance Assessment at Wilmington Maintenance Facility, a large quantity hazardous waste generator. On the basis of information gathered during the assessment, Wilmington Maintenance Facility has been found to be in violation of applicable state statutes and regulations governing the generation of hazardous waste. This Notice, issued in accordance with 7 Del. C., §6309, notifies you that Wilmington Maintenance Facility is in violation of the statutory and regulatory requirements of 7 Del. C., Chapter 63 and the *Delaware Regulations Governing Hazardous Waste* (DRGHW), including but not limited to the following:

1. On the days of the assessments, August 17, August 24, and September 22, 2000, facility representatives were unable to provide a list of employees and their job titles having responsibilities related to the management of hazardous waste. This is a violation of the DRGHW, §265.16(d)(1), which states:

"The owner or operator must maintain the following documents and records at the facility:

The job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job..."

2. On the days of the assessments, August 17, August 24, and September 22, 2000, facility representatives were unable to provide documentation that new employees handling hazardous waste are initially trained within six (6) months after the date of employment or assignment of hazardous waste management responsibilities. This is a violation of the DRGHW, §265.16(b), which states:

"Facility personnel must successfully complete the program required in paragraph (a) of this Section within six months after the date of their employment or assignment to a facility, or to a new position at the facility, whichever is later. Employees hired after the effective date of these regulations must not work in unsupervised positions until they have completed the training requirements of paragraph (a) of this Section."

Delaware's good nature depends on you!

3. On the days of the assessments, August 17, August 24, and September 22, 2000, facility representatives were unable to provide documentation that employees handling hazardous waste are annually trained. This is a violation of the DRGHW, §265.16(c), which states:

"Facility personnel must take part in an annual review of the initial training required..."

4. On the days of the assessments, August 17, August 24, and September 22, 2000, facility representatives were unable to demonstrate that training records are maintained by the facility (until site closure), and that attendance and course content records for former employees have been kept by the generator for three years from the date the employee last worked at the site. This is a violation of the DRGHW, §265.16(e), which states:

"Training records on current personnel must be kept until closure of the facility. Training records on former employees must be kept for at least three years from the date the employee last worked at the facility."

5. On the day of the assessment, August 17, 2000, two 55 gallon steel drums labeled "Hazardous Waste" (Linseed Oil Rags) had hazardous waste labels with accumulation start dates of May 1, and May 15, 2000 respectively. This is over the 90 day maximum. This is a violation of the DRGHW, §262.34(a), which states:

"...a generator may accumulate hazardous waste onsite for 90 days or less without a permit or without interim status..."

And §262.34(b) which states:

"A generator who accumulates hazardous waste for more than 90 days is an operator of a storage facility..."

6. On the day of the assessment, August 17, 2000, SHWMB representatives observed one 55 gallon drum that was not labeled with the words "Hazardous Waste". This is a violation of the DRGHW, §262.34(a)(3), which states:

"...a generator may accumulate hazardous waste onsite for 90 days or less without a permit...provided that...While being accumulated onsite, each container and tank is labeled or clearly marked with the words 'Hazardous Waste'."

7. On the day of the assessment, August 17, 2000, SHWMB representatives observed that the above referenced container was not labeled or marked with the date hazardous waste accumulation began. This is a violation of the DRGHW, §262.34(a)(2), which states:

"...a generator may accumulate hazardous waste onsite for 90 days or less without a permit...provided that...The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container."

8. On the days of the assessments, August 17, and August 24, 2000, facility representatives were unable to provide documentation that the hazardous waste accumulation areas are inspected on a weekly basis. This is a violation of the DRGHW, §265.174, which states:

"The owner or operators must inspect areas where containers are stored, at least weekly, looking for leaks and for deterioration caused by corrosion or other factors. A written record of the inspections must be maintained onsite for a minimum of three years."

9. On the days of the assessments, August 17, August 24, and September 22, 2000, facility representatives could not document that copies of all hazardous waste manifests have been kept for three years. This is a violation of the DRGHW, §262.40(a), which states:

"A generator must keep a copy of each manifest signed in accordance with §262.23(a) for three years or until he receives a signed copy from the designated facility which received the waste. This signed copy must be retained as a record for at least three years from the date the waste was accepted by the initial transporter."

10. On the days of the assessments, August 17, August 24, and September 22, 2000, facility representatives could not document that all copies of Land Disposal Restriction Certification forms for hazardous waste manifests have been kept for three years. This is a violation of the DRGHW, §268.7(a)(8), which states:

"Generators must retain, onsite, a copy of all notices, certifications, demonstrations, waste analysis data, and other documentation produced pursuant to this section for at least three years from the date that the waste that is the subject to such documentation was last sent to onsite or offsite treatment, storage, or disposal."

Upon receipt of this Notice, Wilmington Maintenance Facility must immediately comply with the above cited requirements and unless otherwise specified, submit documentation demonstrating compliance to the Department within thirty (30) days. Submitted documentation must include, but is not limited to the following:

1. Documentation to ensure the facility maintains a list of employees and their job titles having responsibilities related to the management of hazardous waste, as required by the provisions of the DRGHW, §265.16(d)(1).
2. Documentation to ensure that new employees that handle hazardous waste are initially trained within six (6) months after the date of employment or assignment of hazardous waste responsibilities, as required by the DRGHW, §265.16(b).
3. Documentation to ensure that employees who handle hazardous waste are trained annually, as required by the DRGHW, §265.16(c).
4. Documentation to ensure that training records are maintained by the facility (until site closure), and that attendance and course content records for former employees are kept for three years from the date the employee last worked at the site, as required by the DRGHW, §265.16(e).
5. Documentation to ensure that the two 55 gallon steel drums labeled "Hazardous Waste" (Linseed Oil Rags) and had exceeded the 90 day accumulation limit have been shipped offsite, as required by the DRGHW, §§ 262.34(a) and 262.34(b).
6. Provisions to ensure compliance with the hazardous waste accumulation container start date labeling requirements of the DRGHW, §262.34(a)(3).
7. Provisions to ensure compliance with the hazardous waste accumulation container "Hazardous Waste" labeling requirements of the DRGHW, §262.34(a)(2).
8. Documentation that the facility completes weekly inspections of the hazardous waste accumulation area, as required by the DRGHW, §265.174.

Mr. Frank Claar
Wilmington Maintenance Facility
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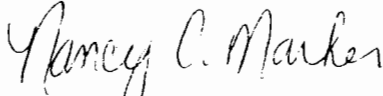
9. Documentation that the facility keeps copies of all manifests for three years, as required by the provisions of the DRGHW, §262.40(a). Documentation was received by the Department on November 9, 2000 to satisfy this requirement.
10. Documentation that the facility keeps copies of all Land Disposal Restriction Certification forms for three years, as required by the DRGHW, §268.7(a)(8).

Submit documentation demonstrating compliance to:

Kevin D. Yingling
Department of Natural Resources and Environmental Control
Division of Air and Waste Management
Solid and Hazardous Waste Management Branch
89 Kings Highway
Dover, Delaware 19901

If you have any questions regarding the content of this Notice, please feel free to contact Kevin D. Yingling of the Solid and Hazardous Waste Management Branch at (302) 739-3689.

Sincerely,



Nancy C. Marker
Program Manager II
Solid and Hazardous Waste Management Branch